

## OTHER VOICES: This 'best system' needs public's service and ideas

**BY THE HON. CLIFFORD TAYLOR**

*September 5, 2006*

Juror No. 8: "According to the testimony, the boy looks guilty. ... Maybe he is. I sat there in court for six days listening while the evidence built up. Everybody sounded so positive, you know, I ... I began to get a peculiar feeling about this trial. I mean nothing is that positive. There're a lot of questions I'd have liked to ask."

In the 1967 film "12 Angry Men," Juror No. 8, who was played by Henry Fonda, challenges the conclusions of his 11 fellow jurors about the evidence presented at a criminal trial. The film is very much a story of questions not asked, as well as the experiences, values and biases that individual jurors bring to their task of finding truth.

Many people who have served on juries have probably wished, like Fonda's character, that they could ask their own questions or see for themselves the scene of a crime. More common, probably, is a juror's frustration at not being able to recall details from testimony and arguments that were presented days earlier.

Why is any of this significant? Because jurors are charged with nothing less than determining the truth.

Every day, juries decide serious questions of guilt and responsibility, with profound meaning for the community and individuals alike. In my experience, which includes more than 20 years of arguing cases to juries as an attorney in private practice, jurors are keenly aware of this high responsibility, and of the part they play in American democracy. We who work in the justice system should do what we can to help jurors fulfill their demanding and critically important role.

Also, jurors who have a good experience are more willing to serve again, and they promote a positive view of jury service with others.

That is why, when I attended the national Conference of Chief Justices in 2005, I listened with an especially attentive ear when my counterparts from other states reported their experiences with various jury reforms. While the changes each state had made varied, their judges' enthusiasm for them did not; the changes were both popular with jurors and effective at trial. Jurors listened more carefully, understood the evidence better, recalled the evidence more completely and accurately during deliberations, and were more confident about their verdicts.

I learned, in addition, that because of these various innovations, jurors were more satisfied with their service because they felt able to play a more informed and active role in determining the truth.

On returning from that conference, I asked Justice Stephen Markman to take the lead in canvassing other states to see what they were doing to change the jury experience. He reported back to the rest of the

court, and after studying those measures and consulting with one another, we agreed that our court should publish its own jury reform package for public comment.

This is not to say that the court has taken a position on all or any of the proposals we have published. We are just at a point of seeking reaction to them. Many strongly believe in these innovations; many also have important concerns about them.

For example, some fear that jurors may lose their impartiality if they can ask questions -- something that jurors cannot currently do in all Michigan trials. We need to consider these and other such issues, with the public's help and input.

Justice Thomas McIntyre Cooley, one of the great justices who served on the Michigan Supreme Court in the 19th Century, once said that "jury trial, as an instrument of justice, as an educator of the people, and as a means of making them feel their responsibility in government, is by far the best system of trial yet devised."

I hope that the public -- especially the many Michigan citizens who have served or will serve as jurors -- will join their state Supreme Court in discussing whether and how we can improve on that "best system."

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